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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,536	12/27/2001	Denis M. Blanford	10011	1432
26884	7590	07/12/2005	EXAMINER	
PAUL W. MARTIN LAW DEPARTMENT, WHQ-4 1700 S. PATTERSON BLVD. DAYTON, OH 45479-0001			TRAIL, ALLYSON NEEL	
			ART UNIT	PAPER NUMBER
			2876	

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,536

Applicant(s)

BLANFORD ET AL.

Examiner

Allyson N. Trail

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-10, 12-16, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 5, 11, and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Amendment

1. Receipt is acknowledged of the request for continued examination filed June 13, 2005.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 4, 8, 10, 14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider (5,115,888) in view of Purvis (2003/0009389).

Schneider teaches the following in regards to claim 1, 8, and 14:

Allowing placement of items to be weighed on a scale 23, of the retail terminal (figure 1). Allowing scanning of one item of the items via a scanner 114, of the retail terminal. Obtaining a first weight measurement (at packing scale 23) of the items on the scale upon successful scanning of the one item.

Schneider additionally teaches the retail terminal including a processor 554 and a memory 552, which contains program steps that CPU 554 follows. (Col. 21, lines 60-64).

Schneider fails to teach the scale being operative to obtain a second weight measurement of the items upon receipt of a trigger signal and additionally fails to teach the actuator comprising a key of the retail terminal.

Purvis teaches the following in regards to claims 1, 3, 4, 8, 10, 14, and 16:

"FIG. 8 is an illustrative user interface 400 showing aspects of operations of the receiving station 23 in accordance with one embodiment of the system and method of the invention. As shown in FIG. 8, the user interface 400 may be generated by the agent processing system 21 or another suitable processing system in the agent 20. The user interface 400 provides for entry of information to identify a bale, weigh the bale, and then grade the bale, for example. In accordance with one embodiment of the methods and systems of the invention, this process is initiated by first placing the bale, or other suitable unit of tobacco, on a scale, such as described above, for example. Next, the grower identification (ID) and farm identification (ID) is scanned, or in some other suitable manner input, into their proper fields by a human user. The weight may be automatically captured, i.e., automatically entered into the unit weight field 410. Alternatively, if using a manual input scale, the user may input the scale into the weight field 410. In accordance with one embodiment of the methods and systems of the invention, if using an automated scale, a weight recapture button 412 may be used to weigh the bale again. This button 412 might be used if there was a concern that the first weight taken was inaccurate." (Paragraph 0041).

In view of Purvis's teachings it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Purvis's method of obtaining a second weight by pressing a weight recapture button (key of the terminal) along with the scanning and weighing method taught by Schneider. As taught by Purvis above, one

Art Unit: 2876

would be motivated to obtain a second weight in order to be confident that the weight measurement is accurate.

4. Claims 6, 7, 12, 13, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider (5,115,888) in combination with Purvis (2003/0009389) and in further view of Ruppert et al (5,640,002).

Schneider's teachings in combination with the teachings of Purvis are discussed above. The combination fails to teach indicating a successful weight measurement by way of an audio device.

Ruppert et al teaches the following in regards to claims 6, 7, 12, 13, 18, and 19:

"When a bar code has been successfully scanned, a beep tone is emitted from a piezoelectric sounding device 89 in FIG. 3." (Col. 11, lines 3-5). Ruppert et al's audio indications of successful scanning could easily be used for the indication of a successful weight measurement.

In view of Ruppert et al's teachings it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Ruppert et al's method of including an audio indication of a successful weight measurement in combination with the scanning and weighing method of Schneider in combination with Purvis. One would be motivated to do so in order for the customer to know that the product's weight has successfully been obtained. This will cut down on time and confusion of not knowing if the product has been successfully weighed or not.

Art Unit: 2876

5. Claims 2, 9, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider (5,115,888) in combination with Purvis (2003/0009389) and in further view of Bogat (2003/0047387).

Schneider's teachings in combination with the teachings of Purvis are discussed above. The combination fails to teach the actuation of a trigger comprising sensing a change of weight on the scale.

Bogat teaches the following in regards to claims 2, 9, and 15:

"A self-checkout terminal typically includes a display, a scanner for reading unit price codes (UPC), and a checkout area for holding items once they have been scanned. The terminal also includes a processor, memory, programmed instructions, and data peripherals to control the operations of the terminal." "Some checkout terminals may also include a security application program that operates to reduce the likelihood that the consumer leaves without scanning all of the items or exchanges scanned items with more expensive items that have not been scanned." "For example, the change in weight detected by the scales of the checkout area may be used to determine the weight of an item just placed on the checkout area." (Paragraph 0003).

In view of Bogat's teachings it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Bogat's method of triggering the weighing of an item upon sensing a change of weight on the scale along with the scanning and weighing method of Schneider in combination with Purvis. One would be motivated to do so in order to obtain an accurate weight measurement with each additional item that is placed on the scale. By doing so, it is guaranteed that the total

correct weight is obtained for the total number of items placed on the scale and therefore ensuring that the charge for the selected items is correct.

Allowable Subject Matter

6. Claims 5, 11, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Prior art teaches placing items on a scale to be weighed, scanning the items, and obtaining a first and second weight of the items. The above identified prior art of record however, taken alone, or in combination with any other prior art, fails to teach or fairly suggest the specific step of initiating a timer after the step of obtaining a first weight measurement, wherein the timer has a time duration, and wherein the step of obtaining a second weight measurement upon actuation of a trigger includes obtaining a second weight measurement upon the actuation of a trigger or the timer reaching the time duration. The above limitation is not taught in prior art and moreover, one of ordinary skill in the art would not have been motivated to come to the claimed invention.

Response to Arguments

7. Applicant's arguments filed June 13, 2005 with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection. Independent claims 1, 8, and 14 include the amended limitation that the first and second weight measurements must be obtained on the same scale. Purvis (2003/0009389) teaches this limitation. Additionally it is argued that the prior art relied upon failed to teach

weighing the same type of item. Broadly interpreted, "type of item" could mean groceries. The claim language does not specify a particular item that is being purchased and weighed.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Allyson N. Trail* whose telephone number is (571) 272-2406. The examiner can normally be reached between the hours of 7:30AM to 4:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571) 272-2398. The fax phone number for this Group is (571) 273-8300.


Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [allyson.trail@uspto.gov].

Art Unit: 2876

All Internet e-mail communications will be made of record in the application file.

PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Allyson N. Trail
Patent Examiner
Art Unit 2876
July 8, 2005


DIANE I. LEE
PRIMARY EXAMINER